

IV. Remarks

On April 25, Applicant filed a response to non-final Office action mailed January 25, 2005. In that response, withdrawn claim 4 was provided without its corresponding text. Accordingly, the Office issued a Notice of Non-Compliant Amendment requesting the text of claim 4. This paper is being filed within the one-month period allowed for reply. Accordingly, Applicant submits that this response is filed within the shortened statutory time period provided for reply without payment of extension of time fees. Accordingly, it is believed that no fees are required with this response. However, the Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required now or hereafter, or credit any overpayment, to Deposit Account No. 50-0206.

Applicants have reviewed the non-final Office Action of January 25, 2005 ("Office Action").

A. Invention

The present invention is generally directed to packaging and applicator devices, in particular for applying at least one cosmetic or care product.

B. Amendments

Claims 23 and 25 have been amended to recite "the coupling member being made as a single piece." This amendment is supported at least in the figures and in paragraphs [014] and [067].

Claims 4, 9-14, 19, 24, 27 and 30 have been withdrawn from consideration by the Examiner.

Claims 1-31 are currently pending.

C. Information Disclosure Statement

Applicants acknowledge that the Office did not consider foreign reference 2,086,849 because, according to the Office, a copy of that reference was not submitted in the IDS filed July 2, 2003.

D. Rejection of Claims 23, 25, 26, and 28 Under 35 U.S.C. § 102(b) As Being Anticipated by Besthorne

Claims 23, 25, 26, and 28 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,318,372 to Besthorne et al. ("Besthorne"). Specifically, the Office Action asserts a combination pen and pencil writing instrument 10 and a coupling member 34 as disclosing the subject matter of these claims.

Amended claims 23 and 25 recite "the coupling member being made as a single piece." Besthorne does not disclose or suggest this feature. Rather, Besthorne discloses that the connector member 34 and the sleeve 42 are two distinct pieces for joining the distal ends of a ball-point pen 12 and a lead pencil 20 together. The coupling member 34 is therefore constituted by two pieces and not by a single one as recited in claims 23 and 25. Claims 26 and 28 depend from claims 23 and 25, respectively, and incorporate this feature by reference.

Accordingly, Applicant respectfully requests that the instant rejection of claims 23, 25, 26, and 28 be withdrawn.

E. Rejection of Claims 23 and 29 Under 35 U.S.C. § 102(e) As Being Anticipated by Dumler

Claims 23 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Dumler et al. (US 2002/0018688, hereinafter "Dumler"). Specifically, the Office Action asserts Figure 9 of Dumler.

Claim 23 recites “each housing being configured to enable at least part of a receptacle to be engaged therein and held by friction.” Claim 29 depends from claim 23 and accordingly incorporates this feature by reference. Normally when two pieces are “held by friction,” it is possible to separate the two pieces by simply overcoming the friction force, e.g., by pulling them apart with a force greater than the frictional force that otherwise prevents them from moving relative to one another. If two objects are “held by friction,” it should not be necessary to turn them in order to separate them, because that would imply that what is causing them to remain coupled is something other than friction.

Dumler does not disclose or suggest this feature. In the embodiment of Figure 9, the coupling member section 4C has an internal thread 13C for the thread 11C of the reservoir 7, so that the reservoir 7 is threaded into the coupling member. The internal thread 13C is what is holding the objects together. If one piece were threaded into the other one, it would not be possible to separate the pieces by pulling them apart. Thus, Dumler does not disclose nor suggest “each housing being configured to enable at least part of a receptacle to be engaged therein and held by friction.”

Accordingly, Applicant respectfully requests that the instant rejection of claims 23 and 29 be withdrawn.

F. Rejection of Claims 1-3, 5-8, 15-18, 20-22, 25 and 31 Under 35 U.S.C. § 103(a) As Being Unpatentable Over Dumler In View Of Chudy

Claims 1-3, 5-8, 15-18, 20-22, 25 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumler in view of U.S. Patent No. 5,884,678 to Chudy (“Chudy”).

Claim 1 recites “the coupling member being at least partially elastically deformable.” Claims 2, 3, 5-8, 15-18, 20-22, 25, and 31 depend from claim 1 and accordingly incorporate this feature by reference. Dumler does not disclose nor suggest a coupling member being elastically

deformable. In Chudy, the connector device includes a tubular member made from an elastic material for holding together two necks 30 and 32 in an abutting relationship, so as to seal the connection so that the paste or liquid may be transferred from one receptacle to the other without leaking.

However, in Dumler there is no problem of sealing, so there is no reason why a skilled artisan would make the coupling sleeve 22 using an elastically deformable material. Furthermore, the coupling sleeve 22 of Figure 7 of Dumler is very thin, so it would be very difficult to make a thin thread on a coupling sleeve if such a sleeve were made in an elastically-deformable material. Thus, Dumler actually teaches away from incorporating Chudy's tubular member.

In Chudy, the thickness of the connector device 38 is relatively great so that making a thread into the connector device 38 is not a problem. On the contrary, in the embodiment of Figure 7 of Dumler, the thickness of the coupling sleeve 22 is too small to allow the coupling sleeve to be made in an elastically deformable material. Furthermore, because of this small thickness of the coupling sleeve 22 in the embodiment of Figure 7 of Dumler, the mechanical resistance would be difficult to obtain if the coupling sleeve 22 were made in an elastically deformable material.

For at least these reasons, one of ordinary skill in the art would not make the coupling sleeve 22 of Dumler with an elastically deformable material, as recited in claim 1. Thus, there is no objective reason for one of ordinary skill in the art to combine Dumler and Chudy. Accordingly, Applicant respectfully requests that the instant rejection of these claims be withdrawn.

Claim 25 recites “each housing being configured to enable at least part of a receptacle to be engaged therein and held by friction.” Dumler (Figure 7 or 9 for example) and Chudy teach using an internal thread in the connector device so that the receptacles are not held by friction, as explained above. Thus, even if combined, the combination of Dumler and Chudy does not disclose or suggest the invention as recited in claim 25.

For at least these reasons, Applicant respectfully requests that the instant rejection of claims 1-3, 5-8, 15-18, 20-22, 25 and 31 be withdrawn.

V. Conclusion

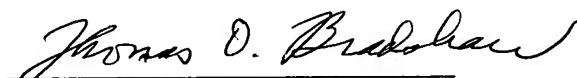
For all the reasons set forth above, it is respectfully submitted that all outstanding rejections have been overcome or rendered moot. Further, all pending claims are patentably distinguishable over the prior art of record. All amendments are supported by the specification and claims as originally filed. Applicants accordingly submit that these claims are in a condition for allowance. Reconsideration and allowance of all claims are respectfully requested.

Authorization is hereby granted to charge or credit the undersigned's Deposit Account No. 50-0206 for any fees or overpayments related to the entry of this Amendment, including any extension of time fees and new claims fees.

Respectfully submitted,

Date:

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